

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

BILLIE RODRIGUEZ, DANIEL ERWIN,  
MICHAEL B. ACKERMAN, KYLE  
FOREMAN, DREW SCRUGGS, MARY  
JANE MCQUEENY, EMILY THORPE,  
JENNIFER TRITT, and THE BOARD OF  
COUNTY COMMISSIONERS OF THE  
COUNTY OF FORD, individually and on  
behalf of all others similarly situated,

*Plaintiffs,*

v.

Case No. 4:24-cv-00803-SRB

EXXON MOBIL CORPORATION,  
CHEVRON USA, INC., CHEVRON  
PHILLIPS CHEMICAL COMPANY LP,  
DUPONT de NEMOURS INC., CELANESE  
CORPORATION, DOW INC., DOW  
CHEMICAL COMPANY, EASTMAN  
CHEMICAL COMPANY,  
LYONDELLBASELL INDUSTRIES N.V.,  
and AMERICAN CHEMISTRY COUNCIL,

*Defendants,*

and

STATE OF KANSAS, *ex rel.* KRIS W.  
KOBACH, Attorney General,

*Defendant-Intervenor.*

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF  
THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA  
IN SUPPORT OF DEFENDANTS' MOTIONS TO DISMISS**

Pursuant to Local Civil Rule 15.1(a), the Chamber of Commerce of the United States of America (the "Chamber") respectfully files this motion for leave to file an amicus curiae brief in support of Defendants' motions to dismiss. Undersigned counsel conferred with counsel for each

of the parties. Defendants consent; Intervenor-Defendant consents; Plaintiffs are opposed. A copy of the proposed amicus curiae brief is attached as **Exhibit 1**.

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Chamber has a strong interest in this case because Plaintiffs' lawsuit would chill expression protected by the First Amendment and impede constructive dialogue on issues of public concern. The Chamber also has a strong interest in ensuring that America's tort system is predictable and does not punish businesses for harms for which they are not responsible. The Chamber supports Defendants' arguments in full and submits this brief to apprise the Court of additional background on both the First Amendment and public-nuisance doctrine. Amicus's motion is timely filed as it is filed before the parties have fully briefed Defendants' motions to dismiss and before the Court has scheduled a hearing for the motions.

"No statute, rule, or controlling case defines a federal district court's power to grant or deny leave to file an amicus brief." *Flaws v. Akal Sec., Inc.*, 2020 WL 3317611, at \*1 (W.D. Mo. 2020). Rather, "it is within the Court's board discretion to permit an amicus curiae to participate in a pending action." *Id.*; see *Arkansas Elec. Energy Consumers v. Middle S. Energy, Inc.*, 772 F.2d 401, 404 (8th Cir. 1985) (district court acted within its discretion permitting amicus participation and denying intervention). As then-Judge Alito explained, courts should "err on the

side of granting leave.” *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 133 (3d Cir. 2002). “If an amicus brief that turns out to be unhelpful is filed, the [Court], after studying the case, will often be able to make that determination without much trouble and can then simply disregard the amicus brief. On the other hand, if a good brief is rejected, the [Court] will be deprived of a resource that might have been of assistance.” *Id.*

For these reasons, the Court should grant the Motion and allow amicus to file the attached brief in this matter.

March 17, 2025

Respectfully Submitted,

/s/ Brooke M. DeLoatch

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2025, a true and correct copy of this brief was filed and served electronically upon counsel of record registered with the Court's CM/ECF system.

/s/ Brooke M. DeLoatch

Brooke M. DeLoatch (Bar No. 72535)